

REMARKS/ARGUMENTS

Claims 18-30 remain in this application.

Rejections under 35 U.S.C. § 112

The Office Action states that claims 18-30 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Office Action states that the phrase, “being capable of substantially retaining its shape,” is allegedly vague and indefinite because “it is unclear what constitutes being able to ‘substantially’ retain its shape and under what conditions this retention of shape occurs.” Applicant respectfully submits that the word, “substantially,” as used in the phrase, “being capable of substantially retaining its shape,” would be understood and its meaning would be clear to one of skill in the art. Further, Applicant submits that the phrase—which gives the aim or property of the claimed structure of the film—is defined and explained in the specification. In at least one example, the specification states that, “the film should be suitable for wrapping, i.e. it should retain the shape given to it during wrapping with the least possible tendency to return to its original shape, i.e. that of a flat film. This property makes it possible to avoid having to use an adhesive or a glue” (Page 2, lines 15-23)

For at least the foregoing reasons, Applicant submits that claim 18—and claims 19-30, which are dependent therefrom—is not indefinite and respectfully requests that the rejections under 35 U.S.C. § 112, second paragraph, be removed.

Rejections under 35 U.S.C. § 103

Claims 18-30

The Office Action states that claims 18-30 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 4,705,707, issued to Winter (“Winter ‘707”), in

view of U.S. Patent No. 5,888,599, issued to Bradt ("Bradt"). However, Applicant respectfully submits that the present invention as claimed is distinguished over both Winter '707 and Bradt—either by themselves or in combination.

First, both Winter '707 and Bradt are individually complete and functional by themselves, so there would be no reason to use parts from or add or substitute parts to either of the references. Further, each of the references solves a different problem than the present invention, and this different problem is even recited in the claims of the present invention. In Winter '707, the problem to solve is to obtain a coextruded film to make popcorn bags with low moisture vapor transmission for microwave cooking. In Bradt, the problem to solve is to obtain lidding films with high seal reliability and that are easily peeled off once sealed on a polyester tray. In contrast, the present invention as claimed solves the problem of obtaining an economical coextruded film for twist wrapping articles while having the film retain its shape. As such, there is no logical reason to take one element from Bradt in order to replace another element in Winter '707, as each reference has its own specific problem to solve.

Second, even assuming, for the sake of argument, that there is some reason to add or substitute parts, those skilled in the art would find it impossible to combine the references in the manner suggested to reach the claims of the present invention. For example, the heat seal layer of the Bradt film is required to be coated, whereas the heat seal layers of the Winter '707 film are required to be coextruded. Even if such a substitution of the heat seal layers was possible, the substitution would amount to a completely artificial action which would not be carried out by any skilled person as there would be no logical incentive to perform such an action.

Finally, even assuming, for the sake of argument, that one of skill in the art could determine a way to substitute a coated layer for a coextruded layer, the combination of Winter '707 and Bradt would still produce an inoperative combination for solving the problem as claimed in the present invention. Both Winter '707 and Bradt require heat sealing layers. In particular, Winter '707 requires heat seal layers of polyester or copolyester. Bradt requires a heat

seal layer made of a copolyester component that is derived from an acid other than terephthalic and/or a diol other than ethylene glycol. These heat seal layers appropriately correspond to the sealing problems to be solved by each reference. The heat seal layer of Winter '707 is adapted to form bags for microwave popcorn. The heat seal layer of Bradt is adapted to obtain reliable and easy-to-open seals on polyester trays. In contrast—and as recited in claim 18—the present invention is not for sealing but instead is for “wrapping objects” without sealing. This is further explained in the specification:

In particular, the film according to the invention allows a solid to be wrapped in wrapping comprising at least twist wrap and/or fold without it being necessary to use an adhesive or bonding agent. In particular, it is not necessary for the film itself to act as bonding agent, which would in some way be the case if the film was hot-sealed on itself to keep the wrapping sufficiently closed. Thus, the film according to the invention allows the production of a wrapping which is kept closed around an object merely by producing at least one twist wrap (also known as a “curlpaper”) and/or at least one fold, without there being the obligatory need to use cold or hot sealing at any point in the wrapping after enveloping the object.
(Page 4, line 16 - page 5, line 2)

For at least the foregoing reasons, the present invention distinguishes over Winter '707 and Bradt—either by themselves or in combination. Accordingly, Applicant respectfully requests removal of the rejections against claims 18-30 under 35 U.S.C. § 103(a).

Claims 18-22 and 24-30

The Office Action states that claims 18-22 and 24-30 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 4,716,061, issued to Winter (“Winter '061”), in view of Bradt.

Applicant notes that Winter '061 appears to differ from Winter '707 only by a substitution of polyethylene for polypropylene in the first layer. As such, the arguments and remarks presented in the previous section remain valid with regard to an attempt to combine Winter '061 and Bradt. Accordingly, the present invention distinguishes over Winter '061 and Bradt and Applicant respectfully requests removal of the rejections against claims 18-22 and 24-30 under 35 U.S.C. § 103(a).

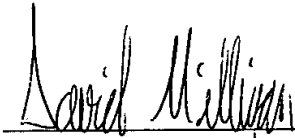
CONCLUSION

Applicant respectfully requests entrance of the above claim amendments. In view of the above claim amendments and remarks, early notification of a favorable consideration is respectfully requested. The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-0206.

Respectfully submitted,

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